

No. 22680

United States
Court of Appeals
for the Ninth Circuit

JOHN C. WAGNER,
PETER C. UNGER,
ROBERT L. WAGNER,

Appellants,

v.

UNITED STATES OF AMERICA,

Appellee

*On Appeal from the United States District Court
for the District of Oregon*

APPENDIX TO BRIEF OF APPELLEE

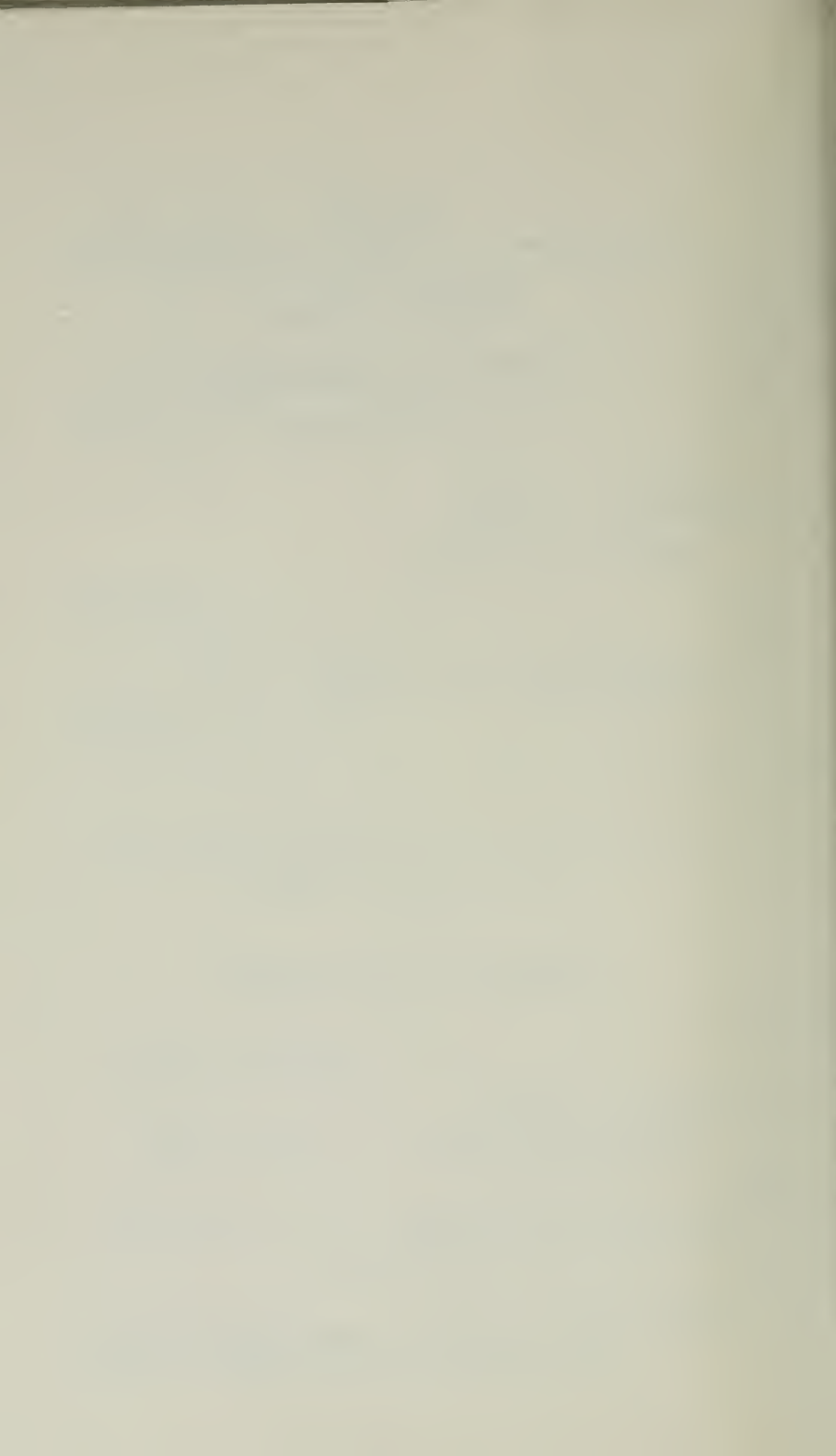
SIDNEY I. LEZAK
*United States Attorney
District of Oregon*

FILED

JAN 28 1969

WILLIAM B. BORGESON
Assistant United States Attorney

WM. B. LUCK, CLERK



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INTRODUCTION

This appendix consists of (1) the statutes involved, (2) affidavit of Tom P. Price dated January 13, 1969, and (3) affidavit of Alice Stordahl Russell dated January 8, 1969, with attachments of memoranda of interviews conducted by FBI agents McCloskey and Neves.

While these affidavits were not a part of the trial record in this matter, they are being submitted for the benefit of the Court in considering the allegations of error of the defendants based upon the alleged failure of FBI agents McCloskey and Neves to adequately warn defendant Peter Unger of his constitutional rights prior to interviewing him. In addition, the affidavit of Tom P. Price is hereby submitted for the Court's consideration on the issue raised by defendant Peter Unger that he had incompetent and ineffective court-appointed counsel.

CONSPIRACY

18 U.S.C. 371

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

"If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor June 25, 1948, c. 645, 62 Stat. 701."

FRAUDULENT INTERSTATE TRANSACTIONS

(Fraud in Sale of Securities)
15 U.S.C. 77q

“(a) It shall be unlawful for any person in the offer or sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly —

(1) to employ any device, scheme, or artifice to defraud or

(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

(b) It shall be unlawful for any person, by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, to publish, give publicity to, or circulate any notice, circular, advertisement, newspaper, article, letter, investment service, or communication which, though not purporting to offer a security for sale, describes such security for a consideration received or to be received, directly or indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.

(c) The exemptions provided in section 77c of this title shall not apply to the provisions of this section. May 27, 1933, c. 38, Title I, § 17, 48 Stat. 84; Aug. 10, 1954, c. 667, Title I, § 10, 68 Stat. 686.”

FRAUDS AND SWINDLES

(Using the Mails to Defraud)

18 U.S.C. 1341

“Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Post Office Department, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. June 25, 1948, c. 645, 62 Stat. 763; May 24, 1949, c. 139, § 34, 63 Stat. 94.”

STATEMENTS OR ENTRIES GENERALLY

(False Statements)

18 U.S.C. 1001

“Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry shall be fined not more than \$10,000, or imprisoned not more than five years, or both. June 25, 1948, c. 645, 62 Stat. 749.”

**TRANSPORTATION OF STOLEN GOODS, SECURITIES,
MONEYS, FRAUDULENT STATE TAX STAMPS, OR
ARTICLES USED IN COUNTERFEITING**

(Interstate Transportation of Converted Property)

18 U.S.C. 2314

“Whoever transports in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of \$5,000 or more, knowing the same to have been stolen, converted or taken by fraud; or

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person to travel in, or to be

transported in interstate commerce in the execution or concealment of a scheme or artifice to defraud that person of money or property having a value of \$5,000 or more; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any falsely made, forged, altered, or counterfeited securities or tax stamps, knowing the same to have been falsely made, forged, altered, or counterfeited; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any traveler's check bearing a forged countersignature; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce, any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamps, or any part thereof —

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

“This section shall not apply to any falsely made, forged, altered, counterfeited or spurious representation of an obligation or other security of the United States or of an obligation, bond, certificate, security, treasury note, bill, promise to pay or bank note issued by any foreign government or by a bank or corporation of any foreign country. As amended July 9, 1956, c. 519, 70 Stat. 507; October 4, 1961, Pub. L. 87 -371, § 2, 75 Stat. 802; Sept. 28, 1968, Pub. L. 90-535, 82 Stat. 885.”

IN THE UNITED STATES COURT OF APPEALS
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ROBERT L. WAGNER,

Appellants,

NO. 22680

v.

UNITED STATES OF AMERICA,
Appellee.

AFFIDAVIT
OF TOM P.
PRICE

STATE OF OREGON

COUNTY OF MULTNOMAH

} ss.

I, TOM P. PRICE, being first duly sworn, depose and say:

That I make this affidavit to refute charges that I was incompetent in my representation of appellant Peter C. Unger during the trial of the criminal case of the United States v. John C. Wagner, et al.

I was admitted to the Oregon State Bar in 1956 and have been a member in good standing since that time. That during this period I have defended many defendants in criminal cases, as well as handling general litigation.

That during the period from 1962-1965 I was associated with the District Attorney's Office as Senior Deputy in Multnomah County, Portland, Oregon, prosecuting before juries in excess of 130 major felony cases.

That in the instant case I was appointed to defend Peter C. Unger by The Honorable Gus J. Solomon, Chief Judge of the District Court of Oregon.

/s/ Tom P. Price

Subscribed and sworn to before me this 13th day of January, 1969.

/s/ F. Jewel McKinney
Notary Public for Oregon
My Commission Expires:
2/28/69

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AFFIDAVIT

STATE OF WASHINGTON

COUNTY OF KING

ss.

I, ALICE STORDAHL RUSSELL, being first
duly sworn, depose and say:

During the trial of the above matter I was employed as a secretary assisting the United States Attorney in assembling and listing of Plaintiff's exhibits and furnishing copies of said exhibits to counsel for all defendants.

On July 27, 1967, at the direction of Mr. Norman Sepenuk, Assistant United States Attorney, I lodged with Mr. Donal D. Sullivan, Clerk of the United States District Court, at Portland, Oregon, a

letter together with three memoranda of interview, copies of which letter and memoranda are attached hereto.

/s/ Alice Stordahl Russell

Subscribed and sworn to before me this 8th day of January, 1969.

/s/ Walter F. Pitts

Notary Public in and for
the State of Washington,
residing at Olympia.

My Commission Expires:
November 20, 1972

United States Department of Justice
UNITED STATES ATTORNEY
UNITED STATES COURTHOUSE
DISTRICT OF OREGON

Portland, Oregon 97207

July 27, 1967

Mr. Donald D. Sullivan
United States District Court Clerk
United States Courthouse
Portland, Oregon

Re: U. S. v. Golden Rule Realty & Development, Inc., et al. CR 66-265, USDC Oregon

Dear Mr. Sullivan:

We are lodging today with your office, for purposes of the record in this case, certain additional memoranda of interview pertaining to the following named individuals:

William F. Kelly
Charles Peter Unger, May 20, 1966
Charles Peter Unger, June 2, 1966
Peter C. Unger, August 30, 1966

The above list-supplements the material previously filed.

Very truly yours,
SIDNEY I. LEZAK
United States Attorney
NORMAN SEPENUK
Assistant U. S. Attorney

Encls.

cc: Judge Robert C. Belloni
 Lewis B. Hampton, Esq.
 Arthur Lewis Whinston, Esq.
 Peter B. Higgins, Esq.
 Tom Price, Esq.
 Leigh D. Stephenson, Esq.
 James J. Damis, Esq.

MEMORANDUM OF INTERVIEW

Person Interviewed: William F. Kelly
 Interviewed By: L. E. Morgan, Investigator, SEC
 Place: U. S. Attorney's Office
 Portland, Oregon
 Date: July 26, 1967
 Re: GRR Development, Inc.

The following information was submitted by William F. King:

He is now desk clerk at the Flamingo Motel, Portland, Oregon.

In March 1966 Kelly and his wife were interviewed and hired by Gordon Z. Jongeward at the Hollywood Towne House to manage the 6th Ave. Motel, Portland, Oregon.

The Kellys moved into an unfurnished apartment at the 6th Ave. Motel on April 1, 1966 and started man-

aging the motel two days later, after the former managers moved out. Kelly gave the daily receipts to Jongeward, who signed the Daily record books. Those receipts totalled approximately \$1,000 for one week. Then a Receiver was appointed to operate the 6th Ave. Motel.

FEDERAL BUREAU OF INVESTIGATION

Dated May 20, 1966

CHARLES PETER UNGER, 3607 Lyons Drive, Apartment "D", telephone number 735-0846, voluntarily appeared at the Las Vegas FBI Office on May 17, 1966. He was advised by SA (A) JAMES E. MC CLOSKEY that he need furnish no information before consulting with an attorney of his own choice, that any information he did furnish could be used against him in a court of law, and that any information he did furnish is considered free and voluntary on his part. He advised he did nothing wrong and he had no reason to consult with an attorney. He advised his mind is hazy on some aspects of this matter but he would answer any questions put to him to the best of his ability. He advised as follows:

His true name is CHARLES PETER UNGER but he has used the name of PETER CHARLES UNGER since about 1955 or 1956. He felt before discussing the Aloha Estates matter he should begin by explaining his beginning association with JOHN C. WAGNER. He is a licensed real estate broker in California but has generally worked as an independent agent. About four or five years ago he was in the Clem Doyle Realty Company office, Costa Mesa, California when he first met JOHN C. WAGNER. He had some property for sale and CLEM DOYLE brought WAGNER to the office as a possible buyer. He did sell the property, location not recalled to WAGNER. He was not certain but he be-

lieved WAGNER to be a real estate broker on the side. He did know that JOHN C. WAGNER at that time was building play houses for children and had rental business space in the V-Block Company, Costa Mesa, California.

After that first association, he and WAGNER became friendly and thereafter jointly bought and sold many pieces of property together near or in Lake Elsinore which is near Riverside, California. He could not recall each specific piece of property even if he saw the particular legal descriptions and/or deeds involved in those transactions. For a period of two or three years, they worked together but eventually, about a year and a half ago, they split up and liquidated what little property they had. He had invested nothing thus he lost nothing but his time and efforts. He does not believe he earned \$2,000.00 over this period of time.

After dissolving their working arrangement he went to Arroyo Grande, near San Luis, Obispo, California and worked on his own. He cannot recall specific or even near dates in this matter. WAGNER did keep in touch with him and the two corresponded frequently.

While at the Clock Realty Company at Santa Marie, California he met a person named COLEMAN CHRISTENSEN. He later contacted CHRISTENSEN, at CHRISTENSEN'S office at Arroyo Grande, California. They did not enter into any business arrangements.

Towards the later part of 1965, he was told somehow by JOHN C. WAGNER that WAGNER had purchased some lots in Hawaii called Aloha Estates. He does not know how WAGNER obtained the property and was never told this by any party with whom he was later associated in this affair. The property was purchased in the name of GRR Development which was based in San Francisco, California. He recalls the name of GRR actually being Golden Rule Realty and Development Company. The company was owned by CHRISTENSEN, a GORDON JONGEWARD and one of their wives. He did not know which wife. He knew the company was situated in San Francisco and had as its Chairman of the Board his friend, JOHN C. WAGNER. In any event JOHN C. WAGNER got in touch with him and said he had a deal for him, UNGER. WAGNER said GRR would give him one-half of the profits in any subsequent sales of properties on Aloha Estates. He was to go to Hawaii, talk with the trust deed holders, and get extensions on the deeds as held by the stockholders. What WAGNER failed to tell him and what eventually caused him to pull out of the entire deal was the fact the overall note as held by Marine Finance Company was two months past due by the time he arrived on the scene in Hawaii. GRR was late on its payments to Marine Finance and that mortgage company was threatening foreclosure after he arrived there.

He accepted WAGNER'S deal in good faith and about Christmas, 1965 he travelled by airplane to Hawaii with his wife and two

children. He was given his plane tickets by GRR. After about a month of meeting with stockholders, principals of Marine Finance and others he realized he was involved in a hopeless mess. He sent a telegram to JOHN WAGNER telling WAGNER he was through. He desired to clarify one matter at this point. In thinking back it was JONGEWARD who purchased a plane ticket for him with JONGEWARD'S credit card.

During the period of time he was in Hawaii he contacted and dealt with ROBERT WAGNER, no relation to JOHN C. WAGNER. ROBERT WAGNER was a former president of Aloha Development or a related corporation and he was also the resident manager of Aloha Development. After he learned it was useless to attempt to make a profit in this matter he and ROBERT WAGNER started drawing funds of GRR paid by investors as living expenses.

Actually GRR used ROBERT WAGNER'S post office box in Mt. View, Hawaii and WAGNER would forward the mail to GRR in San Francisco. After he and ROBERT WAGNER became aware they could not make a profit of the Aloha properties and meet the finance company payments they felt they should at least be paid for their services. WAGNER went to the Post Office and worked out some arrangement so that mail to GRR would be held for him. If the mail contained payments from investors to GRR, WAGNER would take the money and deposit it to a local bank opened in both their names. This checking account was then used by both

ROBERT WAGNER and himself for living expenses. He estimated he received from \$1,500.00 to \$2,000.00 for his efforts in this matter, and from that account. After learning of this bank account in the name of Aloha Development but with the signatories being himself and ROBERT WAGNER, only, JOHN WAGNER became irritated but he told JOHN WAGNER there was no other way as they had to live.

As to other specific information he could advise as follows:

About the time he and JOHN WAGNER split their business arrangement near Riverside, California and liquidated their holdings at a loss WAGNER said he had a deal where he could use the trust deeds on properties at Lake Elsinore to raise cash. The trust deeds he held were in his and his wife's name and were worthless. The trust deeds were valid in themselves as they were secured by properties but they all had first mortgages attached to them in addition to mechanic liens. He and his wife signed the deeds over to WAGNER but since they were not recorded they were worthless.

He does not know if or when they might have been recorded by JOHN WAGNER or anyone else. He did not know these same deeds were used by GRR as security on properties in Aloha Estates.

He did know a MERLEY HOLLAND, Notary Public, but the date of November 30, 1964 meant nothing to him. This could have

been when WAGNER dated the deeds a year later if he so desired. He did not sign over any deeds to WAGNER at that time.

As to the single deed of trust covering the lots as executed by JOHN WAGNER he could not recall any details concerning that deed. He does recall only that CHRISTENSEN and JONGEWARD signed a blank deed covering the entire Aloha Estates and in return JOHN WAGNER and himself gave them or GRR some Lake Elsinore properties in return which also were worthless. The properties were also covered with mortgage loans and liens of all types. He could not recall details of that transaction.

CHRISTENSEN and JOHN WAGNER did sign papers making him President of Aloha Development and gave him the corporate seals, etc. He did not recall where this transfer took place but he was not at Portland, Oregon and he executed no such arrangement then. He did sign a few correspondence letters listing himself as President of the development but he never consummated any land transactions using that title. He did find using that title would assist him when he first went to Hawaii. In fact, the officials of Marine Finance talked with him only because of his position. He never showed anyone at Marine Finance a deed confirming the fact he purchased all the Aloha properties from GRR since as stated the deed property description was in blank.

He did recall talking to one investor, a Mr. THOMAS at Hawaii, at which time he indicated that the deeds of trust at Lake El-

sinore were worthless. He recalled telling THOMAS the deeds were good when he signed them but when he learned they had been used by JOHN WAGNER on the Aloha properties they were worthless as they were never recorded to his knowledge. He does not recall how he learned his own deeds as signed over to JOHN WAGNER were used in Hawaii but one investor showed him such a deed and he realized there must be some swindle involved in this entire deal.

He could not recall a specific piece of property described as Lot 9, Block 12, of Elsinore Sub-Division which indicated he made \$10.00 monthly payments to JOHN WAGNER from December, 1964 to July, 1965. He does know he never made any such payments to WAGNER or anyone else on any properties he held at Elsinore simply since he had no money. He feels WAGNER could logically make that statement as stating the payments were monies owed UNGER and applied by WAGNER to UNGER'S payments. However, he would never have permitted WAGNER to make these payments in his name or with monies due him since the land titles were worthless in view of the mortgages, liens etc.

Before he left Hawaii he turned over to ROBERT WAGNER all the corporate seals, etc. as he had enough of the company. He feels he was taken in this matter. He could not explain how after arriving in the United States about two months ago he continued to do business with the same people of GRR including JOHN WAGNER. He did state he communicates with GRR at the present time but has handled no properties for them in

Nevada. He does list himself as sales manager for GRR in Nevada for credit reference purposes and he knows that if credit inquiries are sent to GRR in San Francisco he would receive favorable references. There is no quarrel between himself and JOHN WAGNER. He just feels somehow he became involved in a bad situation and possibly was used by these people.

He did not desire to furnish a signed statement at this time since he could not recall full details as to dates and places in this matter.

He advised he would be residing in Las Vegas on a permanent basis if he could establish himself in the realty business. At the present time he is self-employed but has handled no real estate transactions to date.

The following description was obtained through observation and interview:

Name	CHARLES PETER UNGER, aka Peter Charles Unger
Sex	Male
Race	White
Age	33
Date of birth	February 7, 1933
Place of birth	Santa Monica, California
Height	6'
Weight	170 pounds
Hair	Dark brown
Eyes	Hazel
Build	Slender
Complexion	Dark or deep sun tanned and pock-marked

Social Security #	552-38-9635
Military Service	U.S. Navy from 2/8/56 to 11/28/61
U.S. Navy Serial #	481 44 83
Marital status	Married
Relatives	ROSE UNGER, wife and two minor children, 3607 Lyons Drive, Apartment "D", Las Vegas, Nevada
Occupation	Real Estate Broker
Employment	Currently self-employed
Arrest Record	Admits none

Date June 2, 1966

CHARLES PETER UNGER, residing at 1101 Clark Street, Apartment 6, Las Vegas, Nevada, as of June 1, 1966, voluntarily reappeared at the Las Vegas FBI Office on June 1, 1966. He was again advised by SA (A) JAMES E. MC CLOSKEY that he need furnish no information of any kind before consulting with an attorney of his own choice, that any information he did furnish could be used against him in a court of law, and that any information he did furnish is considered free and voluntary on his part. He advised he wished to continue to cooperate in this matter, that he did not need an attorney, and that he would do his best to furnish any additional information. After having been placed under oath, he advised as follows:

Since coming to Las Vegas, Nevada, about

two months ago, he has acted as an independent realtor with a California real estate license. He is in contact with JOHN C. WAGNER of GRR Development on a regular basis since they have been friendly for years. Since arriving in Las Vegas, he has been engaged in two separate and distinct transactions with JOHN WAGNER, but he has limited knowledge of each transaction. About three weeks ago, he brought together JOHN WAGNER and MARY BARDOS, Bardos Realty Company, Las Vegas. BARDOS had a client, LEE POTTER, who was a principal owner of a Las Vegas shopping center, location not known to him, in Las Vegas. POTTER also owned a mortgage company, name not recalled, located off East Charleston Boulevard and this was included in the overall transactions. Both he and BARDOS were to get commissions, but to date he has received nothing. He knows of no details of the sale except that GRR Development was buying both the shopping center and the mortgage company, offering GRR corporate notes as security.

About a week ago he paid to JOHN WAGNER a total of \$1,850.00 in the form of a cashier's check from the Bank of Las Vegas, South Fourth Street Branch, Las Vegas, for an apartment house named Champion Oaks, 2000 Curby Way, Roseville, California. The money was his own and money he saved, although at present he is almost penniless. He promised to pay an additional \$700.00 for the property. WAGNER was selling him property as agent for GRR that previously had purchased the property from a RUTH CHESNEY and her husband, name not recalled. To

his knowledge, JOHN WAGNER gave the CHESNEYS a GRR corporate note for the property. He knows no further details as to the former owners or their agreement with GRR.

He did learn from JOHN WAGNER that GRR was buying a second trust deed held on the Tod Motor Hotel, Las Vegas, from a LLOYD MORGAN. The transaction was being handled through the Bardos Realty Company and to his knowledge it was put in the hands of an escrow company, name not recalled. JOHN WAGNER never furnished him with details of this transaction and since he was not personally involved he made no independent inquiries. JOHN WAGNER currently operates through the Potter Mortgage Company, Las Vegas.

As to past dealings with JOHN WAGNER and principals of GRR, he could advise as follows:

He could not recall names and dates in most of his transactions, but they were all legitimate business deals at the time. Since he and WAGNER had engaged in many property and title transfers in the past, he saw no reason when in November, 1963, and thereafter he should not help WAGNER. He did not know that many pieces of property in Lake Elsinore, California, were of value during that period he and/or WAGNER held them. He further knew that JOHN WAGNER first purchased several lots in Block 12, Elsinore Subdivision, Riverside County, California, from a JAMES O. RUPARD. No money

exchanged hands except possibly escrow costs, but WAGNER did give RUPARD a \$25,000.00 note on his home located on Prince Albert Street, Riverside, California. At the time, WAGNER was having financial difficulties and being afraid of liens attached to the property he deeded the property to him, UNGER, and his wife, ROSE UNGER. This was strictly a gentleman's agreement and he accepted the titles accordingly. After that the deeds were transferred back and forth several times between the UNGERs and the WAGNERs, all at WAGNER's request. He did not question WAGNER since he assumed WAGNER needed time to straighten out his affairs.

He was well aware but had no information JOHN WAGNER was aware of the foreclosures on those pieces of property and their resumption to and by RUPARD. The date of April 23, 1965, appeared accurate to him as to the date of the foreclosings, but as stated he did not know if WAGNER knew of those foreclosings. He could not recall the actual sequence of title transfers, but he wished to stress that at the time of his manipulations of transfers of the Elsinore properties, they were good and legitimate pieces of property. Some of the properties had liens attached, but other pieces of land were free and clear. He derived no real profit from these title transfers, but this is his business, the business of the fast transaction. As a realtor, he deals in large finances rather than single home transactions. His wife, ROSE UNGER, had no knowledge of any real estate matters in which she was listed as transferring or accepting titles to properties. She just did as he re-

quested and as stated he was only going through these maneuvers for an old friend.

He also wished to make one point clear. He at no time in the 1963 through early 1965 period heard of GRR and it was only in the latter part of 1965 when he accepted the offer to go to Honolulu for GRR that he knew of such a corporation. All his early dealings with JOHN WAGNER on the Elsinore properties had absolutely nothing to do with GRR Development or Aloha Estates. It was only after he had been in Honolulu shortly after Christmas, 1965, representing GRR, that he learned from stockholders there that GRR Investment, through JOHN WAGNER, had given as security some of his own former personal holdings in Elsinore, California. This was when he realized how worthless the Elsinore properties were as they pertained to GRR since the titles he saw while in Honolulu had previously reverted back to JAMES RUPARD. In this same matter, he does not know why JOHN WAGNER held these Elsinore properties until a year later before having them recorded. He could only speculate knowing WAGNER that he held the title transfers in his briefcase and forgot about them for a long period of time. In any event, he was not involved in the giving of Elsinore titles to Aloha Estates investors at any time, and cannot account for JOHN WAGNER's actions. Neither he nor his wife are related in any way to JOHN WAGNER or his wife.

On or about July 6, 1965, date not certain, he purchased a California company named Lou Peg Corporation from a Mr. REDON, first name not recalled. The transaction was

handled through DOLF BENNETT, attorney in the law firm of DOLF and LEONARD BENNETT, located either in Canoga Park or Sherman Oaks, California. Through the attorney he gave as security two trust deeds on Lake Elsinore properties he personally owned, and which had no connection with GRR or JOHN WAGNER. No monies exchanged hands in this sale of the Lou Peg Corporation. His purpose in obtaining the corporation concerned a liquor license he wanted to obtain. He could not recall full details without his business files, but Lou Peg held an option in Santa Monica Canyon, California, to pick up the license, which he later obtained. An additional incentive to him in this purchase was the option to purchase additional land in the same area. He still holds title to the corporation but it has and never had any real assets of substance since he obtained it. He would estimate the entire net worth of Lou Peg Corporation was not more than \$2,000.00, which he could prove if required.

Since he knows JOHN WAGNER and discussed his purchase of Lou Peg, he feels WAGNER knew the corporation had very little monetary value. He travels quite frequently and in early December, 1965, which was shortly before he left for Honolulu to handle the Aloha Estates matter for GRR, he met with JOHN WAGNER at Scottsdale, Arizona. He does not recall what caused them to meet at that location, but he presumed it was at WAGNER's request. WAGNER briefly told him of the Hollywood Towne House at Portland, Oregon, and that he, for GRR, was negotiating its sale. WAGNER stated something

to the effect he needed an escrow to show to possible purchasers. WAGNER stated he needed time to generate more funds as he was being pressed. He furnished no actual details but this was the manner in which they both operated and generally independent of each other. WAGNER did state a note was due at the bank or a mortgage company on the Hollywood Towne House matter, and he wanted an escrow to show to someone. Since he and JOHN WAGNER have assisted each other in the past in this manner of transferring titles to generate funds, he saw no reason why he should not go along with WAGNER.

WAGNER drew up an escrow, dated December 2, 1965, indicating Lou Peg was receiving all the shares of the Hollywood Towne House from GRR Development. WAGNER never told him and he never asked what WAGNER was going to do with the escrow. They did go to the American Title and Trust Company, Scottsdale, and requested an escrow agreement be handled by that office. He could not recall who handled the transaction at the escrow company, but it was a woman. He and WAGNER were told to return later after the escrow agreement had been typed. WAGNER appeared in a hurry to have this escrow handled and he believed it was the same date they both returned to the escrow company where he signed the form Lou Peg Corporation by PETER C. UNGER, President. He did not recall what happened to the escrow after that but he does know the document was worthless in itself since no action was ever taken on the escrow. WAGNER later

told him the deal to sell the Hollywood Towne House fell through and naturally the escrow was worthless. In connection with the escrow, he never received anything for signing this form, no shares of stock changed hand, and a promissory note in no amount, let alone \$750,000.00, was ever executed or changed hands. The entire escrow was worthless except that WAGNER needed it at the time, and if his sale could have been consummated possibly the escrow could have some value.

He was shown by SA (A) JAMES E. MC-CLOSKEY a copy of escrow instructions, dated December 2, 1965, escrow number 30,313, concerning the Lou Peg Corporation and Hollywood Towne House. The document was signed Lou Peg Corporation, a California corporation, by PETER C. UNGER. He advised the first signature of PETER C. UNGER was his own, but the second signature of PETER C. UNGER appearing below the word President was not his. The document was indicated assigned by GORDON JONGEWARD for GRR Development. He does not know how JONGEWARD's signature appeared on this form unless after he signed the escrow he gave it to WAGNER who somehow held it until JONGEWARD signed it.

He was shown by SA (A) MC CLOSKEY a copy of a form entitled Escrow Instructions American Title and Trust Company, dated December 2, 1965, listing GRR Development as seller and Lou Peg Corporation as buyer. Page two of the instructions indicated the signature of PETER C. UNGER, President, Lou Peg Corporation. He advised the signature appearing on that document was his own,

but again he does not know and did not know how JOHN WAGNER intended to use the documents. The pages attached to the escrow instruction list properties he, UNGER, held at the time, but which had no connection with Lou Peg Corporation.

He does recall that WAGNER had told him the Hollywood Towne House did have a Federal Housing Administration mortgage but he knew no details of this mortgage. He is not aware how much money GRR obtained as rental income from the Hollywood Towne House. He never received any money or anything of value from JOHN WAGNER, any official of GRR, or anyone else either for his having signed the escrow papers or for having assisted in this transaction. He never received any monies from WAGNER or anyone else in connection with the Hollywood Towne House. He is not and never was an employee or official of GRR except for the short time in 1966 when he attempted to handle the Aloha Estates matter for GRR. He is an independent operator and realtor, but when he sees a deal GRR might be interested in following, he does advise JOHN WAGNER accordingly.

He could recall no other real estate transactions wherein he was involved with GRR in any way. He does recall having heard that GRR had purchased a piece of property known as Ruby View Trailer Estates, Elko, Nevada, from a MARK NORDA or CORDA, who resides somewhere in the California San Fernando Valley. He knew the so-called estates was only several pieces of land in the

open desert, and contained no actual development or trailers. He did not know if GRR sold any of the lots or what the status of the estates are at the present time.

He would cooperate in this investigation in every manner he can. He feels he personally did nothing wrong in any of his transactions with GRR. He did not know how long he would remain in the Las Vegas area since he has no money at the present and his future depends on real estate transactions. He would furnish a signed statement if it became necessary at a later date although he has a poor memory for names and dates and could furnish very little in the way of positive information.

FEDERAL BUREAU OF INVESTIGATION

Dated August 30, 1966

PETER C. UNGER, Realtor, when interviewed at his residence Apt. 1, 2004 South Cirby Drive, furnished the following signed waiver:

"YOUR RIGHTS

Place: Roseville, Calif.
Date: 8/29/66
Time: 2:05 P.M.

"Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court. You have the right

to talk to a lawyer for advice before we ask you any questions, and to have him with you during questioning. You have this right to the advice and presence of a lawyer even if you cannot afford to hire one. We have no way of giving you a lawyer, but one will be appointed for you, if you wish, if and when you go to court. If you wish to answer questions now without a lawyer present, you have the right to stop answering questions at any time. You also have the right to stop answering at any time until you talk to a lawyer.

"WAIVER

"I have read the statement of my rights shown above. I understand what my rights are. I am willing to answer questions and make a statement. I do not want a lawyer. I understand and know what I am doing. No promises or threats have been made to me and no pressure of any kind has been used against me.

Signed PETER C. UNGER

Witness: James R. Neves, Spl Agt. F.B.I.

Time: 2:06 P.M., 8/29/66"

On 8/29/66 at Roseville, California. File # 46-9049.
SA JAMES R. NEVES / ER Date dictated 8/29/66.

After execution of the waiver, UNGER was duly sworn and placed under oath.

After viewing a copy of a Note Secured by Deed of Trust, dated January 15, 1965, in the amount of \$7,500 to JOHN C. WAGNER, and signed PETER C. UNGER and ROSA J. UNGER, and the assignment of Trust Deed by JOHN C. WAGNER to GEORGE E. and DOROTHY BARKDOLL dated April 19, 1965, UNGER stated that he executed this note, but that the details of the transaction are not recalled by him at this time, nor would he have any written record of the transaction. UNGER stated that although he has no specific recollection of the event, undoubtedly this note, secured by a deed of trust to Parcel 6, Township 7, Lake Elsinore Estates, Riverside, California, which parcel he still believes he owns but is under litigation, was executed to cover the balance of the purchase price of property from WAGNER, or to cover an indebtedness he owed WAGNER for some other transaction. He stated that while he does not recall the details of the transaction, he feels certain that he received a consideration of some type at the time of execution.

He stated that he believes he still owns about 300 lots at Lake Elsinore Estates, although some, if not all, may have been lost through foreclosure, but that he has never taken the time to determine if he still owns this property at Lake Elsinore.

UNGER advised that he entered into an informal gentlemen's agreement with WAGNER relative to the sale and exchange of real estate and that he would estimate that he had some fifty odd transactions with WAGNER

from which he would receive deeds of trust for various property or other remuneration from WAGNER as commission, or he would assign deeds of trust, or issue promissory notes to WAGNER, depending upon the circumstances of the transaction. He stated that he cannot recall the details of these transactions, and that he has no written record of them as they were all verbal agreements which they worked out between themselves. He stated that he did not keep any written record as to his transactions with WAGNER and that they did not go through escrow whenever one assigned a deed of trust to the other, since they did not believe that such was necessary. He advised, however, that the Recorder's Office should have a record of the property which he secured from WAGNER.

UNGER stated that at the time of the execution of the note on January 15, 1965, he considered it to be a valid instrument and that he fully intended to comply with the terms of the note. He stated that he has no recollection that he ever made any payments on this note, but that it is possible that this note could have been satisfied by some other indebtedness which WAGNER may have owed him subsequently, although he has no specific recollection that such was the case. He stated that in the many promissory notes and assigned deeds of trust which he executed to WAGNER, he was assured by WAGNER that as long as WAGNER held the notes he would never foreclose on UNGER if he became delinquent, and that they would find some method to work out their financial status. He stated that

he possesses no information, nor has he ever made a statement to the effect, that at the time of the execution of this note, or any other note, he received no consideration for the note, that the note was valueless or not a bona fide instrument, or that WAGNER, at the time of the execution, knew the note was meaningless and did not expect payment. He stated that such was not true and only a complete fool would make such a statement.

He stated that at no time does he believe that he ever engaged in an illegal practice or activity, nor does he possess any information that WAGNER ever knowingly participated in such activities. He stated that he recalls an incident involving the purchase of real estate in Hawaii, which subsequently fell through, whereby WAGNER transferred a note secured by a deed of trust, which property had already been foreclosed and hence the note was valueless, but that when he questioned WAGNER concerning this, WAGNER advised him that he had intended to transfer notes on property which was clear and that he had inadvertently transferred the incorrect notes.

UNGER also stated that the names GEORGE E. BARKDOLL and DOROTHY BARKDOLL are not familiar to him and he does not know these persons. He advised that he was not aware, in most cases, what disposition WAGNER made of his notes, or to whom they were transferred, if anyone.

He also stated that the name ALVIN R. STEWART is familiar to him as a Notary

Public with whom WAGNER was associated, but that he never met this person and does not know what connection, if any, STEWART had with the GRR Development Company. He stated that as he recalls, STEWART at one time lived in Arroyo Grande, California, but his present whereabouts are not known.

He stated that he has met PETER CRISTALL, a Canadian who resided at the Elsinore Hotel during the time that he, UNGER, owned the hotel, but that he possesses no information as to CRISTALL's whereabouts, other than that he probably returned to Canada. He stated that he is aware that CRISTALL executed a promissory note, secured by a deed of trust to property at Lake Elsinore, amount unknown, to WAGNER for property purchased by CRISTALL, and that as he recalls, it went to escrow and then fell through when CRISTALL made no payment. He stated that he cannot recall if CRISTALL purchased the property from WAGNER, or himself, UNGER, but he believes that it was WAGNER's property which was purchased.

UNGER stated that he plans to move on or about September 15, 1966, but that he does not know where he is going to move or how he can be located other than through correspondence to him through Post Office Box 290, Las Vegas, Nevada, which he still retains. He stated that he does not tell any relatives or associates where he can be located, and he knows of no other way he can be contacted after that date. He stated that should the need arise to recontact him, a letter to him at the above address would suffice and he would arrange a date for interview.

CERTIFICATE

I certify that in connection with the preparation of this appendix, I have examined Rules 18 and 19 of the United States Court of Appeals for the Ninth Circuit, and that in my opinion, the foregoing brief is in full compliance with those rules.

Date: day of, 1967.

SIDNEY I. LEZAK

United States Attorney

District of Oregon

